

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION

JASON BATES,

Plaintiff,

vs.

AUDREY ANDERSON,
Unit Counselor,

Defendant.

CIVIL ACTION NO.: CV210-088

ORDER

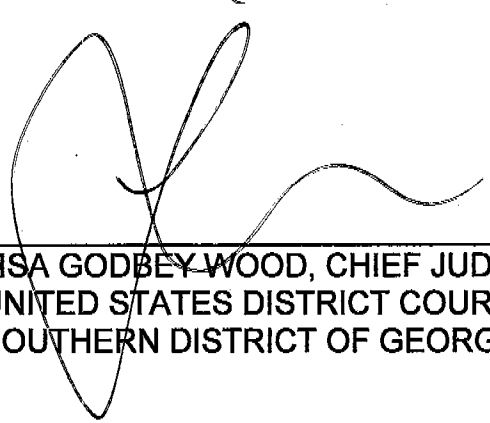
After an independent and *de novo* review of the entire record, the undersigned concurs with the Magistrate Judge's Report and Recommendation, to which Objections¹ have been filed. In his Objections, Plaintiff states that having a medical profile for a lower bunk is not a prerequisite for being placed in a lower bunk. Plaintiff asserts that he had been in a lower bunk for two (2) years, even after his medical profile expired, yet Defendant moved him from his lower bunk. Plaintiff alleges that he was similarly situated with white inmates when Defendant violated his constitutional rights.

As the Magistrate Judge noted, Plaintiff has not produced evidence which reveals Defendant acted with a racial animus at the time she assigned other inmates to a lower bunk. Plaintiff's Objections are **overruled**. The Magistrate Judge's Report and

¹ Defendant filed a Motion to Stay Referral of the Report and Recommendation, which the Magistrate Judge denied by Order dated May 24, 2011. Defendant also filed a Motion to Dismiss Retaliation Claim for Failure to Exhaust Administrative Remedies. Given the undersigned's disposition of Defendant's Motion for Summary Judgment, the Magistrate Judge will prepare a Report on Defendant's newest Motion in the not too distant future.

Recommendation is adopted as the opinion of the Court. Defendant's Motion for Summary Judgment is **GRANTED** in part and **DENIED** in part. Plaintiff's equal protection claim and his claims for compensatory and punitive damages are **DISMISSED**. Plaintiff's retaliation claim and his request for nominal damages shall remain pending.

SO ORDERED, this 27 day of June, 2011.



LISA GODBEY WOOD, CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA